United Nations S/PV.4803

Security Council

Fifty-eighth year

Provisional

4803rd meeting

Friday, 1 August 2003, 7.40 p. m.

New York

President:	Mr. Wehbe	(Syrian Arab Republic)
Members:	Angola	Mr. Gaspar Martins
	Bulgaria	Mr. Raytchev
	Cameroon	Mr. Chungong Ayafor
	Chile	Mr. Muñoz
	China	Mr. Zhang Yishan
	France	Mr. Duclos
	Germany	Mr. Pleuger
	Guinea	Mr. Boubacar Diallo
	Mexico	Mr. Aguilar Zinser
	Pakistan	Mr. Khalid
	Russian Federation	Mr. Gatilov
	Spain	Mr. Arias
	United Kingdom of Great Britain and Northern Ireland	Sir Emyr Jones Parry
	United States of America	Mr. Negroponte

Agenda

The situation in Liberia

Letter dated 29 July 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/769)

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03-44942 (E)

The meeting was called to order at 7.40 p.m.

Expression of thanks to the retiring President

The President (*spoke in Arabic*): As this is the first meeting of the Security Council for the month of August, I should like to take the opportunity to pay tribute, on behalf of the Council, to His Excellency Mr. Inocencio Arias, Permanent Representative of Spain to the United Nations, for his service as President of the Security Council for the month of July 2003. I am sure I speak for all members of the Council in expressing deep appreciation to Ambassador Arias for the great diplomatic skill with which he conducted the Council's business last month.

Adoption of the agenda

The agenda was adopted.

The situation in Liberia

Letter dated 29 July 2003 from the Secretary-General addressed to the President of the Security Council (S/2003/769)

The President (*spoke in Arabic*): The Security Council will now begin its consideration of the item on its agenda. The Council is meeting in accordance with the understanding reached in its prior consultations.

Members of the Council have before them document S/2003/769, which contains the text of a letter dated 29 July 2003 from the Secretary-General addressed to the President of the Security Council.

Members of the Council also have before them document S/2003/784, which contains the text of a draft resolution submitted by the United States of America.

I should like also to draw the attention of members of the Council to documents S/2003/678, S/2003/695 and S/2003/696.

I welcome the presence of the Secretary-General, His Excellency Mr. Kofi Annan, at this meeting; I appreciate the keen interest that his presence reflects.

It is my understanding that the Council is ready to proceed to the vote on the draft resolution before it. Unless I hear any objection, I shall put the draft resolution to the vote.

There being no objection, it is so decided.

I shall first call on those members of the Council who wish to make statements before the voting.

Mr. Aguilar Zinser (Mexico) (*spoke in Spanish*): My delegation takes this opportunity to congratulate you, Sir, on your speedy and effective assumption of the presidency for the month of August. Our thanks go to Ambassador Arias of Spain and his delegation for their effective work last month and for their good temper and sense of humour throughout our difficult work. We too welcome the presence of Secretary-General Kofi Annan at this meeting.

The Government of Mexico has decided to abstain in the vote on draft resolution S/2003/784. My country would have preferred a paragraph-by-paragraph vote, but the sponsor of the draft resolution was opposed to that procedure, which is contemplated in rule 32 of the Council's provisional rules of procedure. We requested a paragraph-by-paragraph vote in order to make it clear that the one and only reason for our abstention is our disagreement with the content of paragraph 7 of the draft resolution and that, like the other members of the Council, we fully support all the other provisions of the text.

In the course of the negotiations, Mexico proposed the omission of that paragraph, because it is essentially irrelevant to the objective of restoring security and peace in Liberia; it is unnecessary for the purposes of this draft resolution. Like other delegations, Mexico submitted various other formulations in a quest for consensus. Unfortunately, consensus was not achieved. Paragraph 7, to which Mexico has an objection, would set a serious precedent by doing away with the prerogatives of States whose legislation provides for the exercise of criminal jurisdiction in cases where crimes are committed against their nationals abroad. Mexico cannot support that; it is in specific contravention of our laws: article 4 of Mexico's penal code clearly establishes that crimes committed abroad by a foreigner against a Mexican shall be prosecuted in Mexico, provided that the accused has not been the accused of a definitive trial in the country in which the crime occurred.

Likewise, we express our concern at the fact that paragraph 7 fails to provide guarantees for the attainment of one of the international community's most dearly held objectives — the elimination of impunity — since it does not establish an obligation for troop-contributing countries to try officials or personnel who have committed crimes or other offences.

It was for all those reasons and in order to uphold the laws of Mexico and the principles of international law that Mexico decided to abstain in the vote. The Mexican Constitution imposes an absolute obligation upon the head of the Executive branch — whom I represent — to respect and ensure respect for the laws emanating from the Constitution.

We regret that we must abstain, because ever since it joined the Security Council Mexico has been particularly attentive to the issue of peace in Liberia and to the humanitarian situation there. Our chairmanship of the Security Council Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone has given us an opportunity to look closely at the critical situation of Liberia in recent years and to gain an understanding of the responsibility of the international community and of the Security Council to address the situation in that country.

Mexico never agreed with the strategy of passive containment that was for so long adopted towards Liberia; its only outcome was the deterioration of the humanitarian and human rights situation for the majority of Liberians. Further, Mexico has worked to ensure that the Security Council devotes particular attention to the problems of West Africa, employing a comprehensive regional approach. Here, peace in Liberia is a key component of peace and security throughout the region.

In the course of the July 2002 visit by our delegation to assess compliance with the Sierra Leone sanctions imposed by the Security Council, we met with Liberian authorities, civil society and with United Nations officials and staff. As a result of those meetings we advised the Security Council to abandon passivity and adopt an approach of constructive engagement so that, through the active participation of the United Nations and with the leadership of the Economic Community of West African States (ECOWAS) we would be able to achieve political agreements between the Government of Charles Taylor and the armed rebels, leading to a ceasefire and, thus, to an end to the violence whose innocent victims are women and children. In that spirit, over the course of several months, the delegation of Mexico advocated a presidential statement, which was ultimately issued on 13 December 2002 (S/PRST/2002/36). In that statement the Security Council expressed its grave concern about the humanitarian situation and stated the urgent need to adopt a strategy of constructive engagement. Unfortunately, the ensuing efforts were inadequate for want of political will.

Despite repeated appeals by Mexico and other countries, the violence continued, instigated from within Liberia and from outside it, and the humanitarian situation became critical. Following the Accra agreement of 17 June 2003 establishing a ceasefire in Liberia and securing Taylor's commitment to leave power, Mexico supported the proposal to dispatch a multinational stabilization force to Liberia and the subsequent deployment of a United Nations peacekeeping operation, which would guarantee a transitional political process culminating in free and fair elections.

The need for such a multilateral peacekeeping force was dramatically emphasized by ECOWAS and eloquently expressed by the Secretary-General himself. On 18 July 2003, Mr. Kofi Annan made an urgent appeal to the Security Council, particularly to some of its permanent members, to adopt, in accordance with the Charter, the measures necessary to put an end to violence and to ensure the supply of basic humanitarian assistance to the civilian population of Liberia, concentrated mainly in Monrovia because of the war.

During the Security Council mission to West Africa, which took place from 26 June to 5 July 2003, the Mexican delegation reiterated once again its belief that it was necessary and urgent that the Council and the international community lend their full support to ECOWAS so that the proposed multinational force could be deployed to Liberia in order to make the parties comply with the ceasefire to which they had committed themselves.

Finally, in recent weeks Mexico continued to insist that the Security Council act, given the repeated acts of violence and criminal attacks against the civilian population carried out mainly by the rebel groups. My delegation is convinced that, if we had acted in time, many lives would have been saved and the great suffering of the Liberian people would have been lessened.

While this draft resolution comes a bit late, the action it proposes must serve as a point of departure to begin a transitional political process to restore peace to Liberia. The draft resolution states, and my delegation agrees, that it is imperative that there be respect for the ceasefire, on the basis of which all parties involved, including the political parties, civil society and all

those who have been forced into exile, can agree on measures that will lead to the election of a Government that represents all Liberians.

We also agree that President Charles Taylor must honour his commitment to abandon power in order to allow this process to move forward, and we fully support the position of the African Union and ECOWAS that no force that aspires to gain power through armed force can achieve such power legitimately. We hope that in the coming days the Liberians will finally regain hope.

Mr. Pleuger (Germany): First of all, I welcome the presence of the Secretary-General at this very important meeting. As this is the first time that I address you, Sir, in your new capacity as President of the Council, I would like to congratulate you and assure you that we will support your presidency as far as we can. I would also like to thank Ambassador Arias for the very able way in which he conducted the business of the Council during the previous month. Last but not least, I would like to thank Ambassador Negroponte for having presented us with the draft resolution on which we are going to vote today.

We deeply deplore the dramatic events that are taking place in Liberia. The reports that are coming out of that country are deeply disturbing. The constant killing of civilians, children and women in particular is to be deplored. As was stated by Ambassador Aguilar Zinser, the Council must react quickly and swiftly. It is already quite late to do so. Therefore, Germany supports the rapid deployment of a multinational force and subsequently of a United Nations force. We therefore urged, together with others, the presidency to convene this meeting. We also urged that the 24-hour rule be waived so that we could come to a decision at an early stage. We thus are in favour of all parts of the draft resolution that pertain to the mission in Liberia.

However, we must also admit that we would have liked to see one more paragraph in the draft resolution pertaining to children and their well-being. We would have liked to have not only the very welcome second preambular paragraph, which pertains to the well-being and rehabilitation of children, but also a stronger operative paragraph calling on all Liberian parties to ensure the protection, well-being and rehabilitation of children in accordance with international obligations and the provisions of Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001) and 1460 (2003).

Having said that, I have to state that my delegation cannot agree with paragraph 7 of the draft resolution. Paragraph 7 goes far beyond what the Council decided just a few weeks ago in resolution 1487 (2003), on which we abstained. Paragraph 7 not only limits the jurisdiction of the International Criminal Court (ICC), it goes beyond that. It limits national jurisdiction of third countries with respect to crimes committed by members of the multinational force or a United Nations stabilization force if that member is the national of a State not party to the Rome Statute of the ICC.

Therefore, it is our view that the proposed paragraph would prevent prosecutors in States that may have to exercise jurisdiction over crimes committed against their nationals abroad from investigating and prosecuting those crimes. In practical terms, for our legal system that would mean that if a German were killed in Liberia, no German court could prosecute the perpetrator.

The second point is that prosecuting what we consider to be international crimes, such as trafficking in human beings — trafficking in women — piracy or other international crimes, under Germany law by any German court, regardless of where the crimes are committed and by whom, would not be possible. We feel that the purpose of that paragraph could have been met by concluding a bilateral status of forces agreement, as has been done in previous instances and in other peacekeeping operations.

There is no precedent for that. There is no reason to limit the national jurisdiction of third countries. There is no justification for discriminating against peacekeepers from countries that are members of the Rome Statute of the ICC. Therefore, we feel that that paragraph is not in accordance with international and German law, and we regret not being able to accept it. Therefore, Germany has no choice but to abstain in the vote. Although — and I would like to stress this — we support wholeheartedly the rest of the draft resolution, we would have preferred to have voted on the draft resolution paragraph by paragraph to make clear that the Security Council has consensus on all parts of the draft resolution except paragraph 7.

The President (*spoke in Arabic*): I now put to the vote the draft resolution contained in document S/2003/784.

A vote was taken by show of hands.

In favour:

Angola, Bulgaria, Cameroon, Chile, China, Guinea, Pakistan, Russian Federation, Spain, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America

Against:

None

Abstaining:

France, Germany, Mexico

The President (*spoke in Arabic*): The result of the voting is as follows: 12 votes in favour, none against and 3 abstentions. The draft resolution has been adopted as resolution 1497 (2003).

I shall now give the floor to those members of the Council who wish to make statements following the voting.

Mr. Negroponte (United States of America): Mr. President, I join you and others in welcoming the Secretary-General in our midst. I thank him for his presence on this occasion.

The United States is gratified by the swift action taken by the Security Council in adopting this important resolution on Liberia, introduced by my delegation. Our sponsorship of this resolution reflects the importance that the United States places on finding the right and effective means to bring peace to Liberia. It is our conclusion that an effective response demands intensive involvement by the Economic Community of West African States (ECOWAS) and the rest of the international community, anchored by the United Nations. The United States will do its part to support this endeavour. We ask all Member States to show their support through contributions to the staffing, funding and sustenance of the Multinational Force and the United Nations peacekeeping mission to follow.

This resolution will permit the Multinational Force to deploy in Liberia under the authority of Chapter VII of the United Nations Charter. It also sets in motion the establishment of a United Nations peacekeeping mission. The resolution authorizes the peacekeeping forces in Sierra Leone to provide support to the initial phase of ECOWAS deployment without jeopardizing the continuing mission of the United Nations Mission in Sierra Leone (UNAMSIL), and it authorizes the Secretary-General to take immediate steps to begin to prepare for deployment of a follow-on United Nations peacekeeping mission.

We are confident that the committed efforts of the Special Representative of the Secretary-General, Mr. Jacques Klein, backed fully by the will of the Council and the resources of the Secretariat, will significantly advance this critical deployment. The Multinational Force and a follow-on United Nations peacekeeping operation go hand in hand. The Multinational Force is a crucial short-term bridge to our goal of placing United Nations peacekeepers on the ground in Liberia as soon as possible.

We appreciate the willingness of many of the West African States to assist in the vital task of restoring peace to Liberia. I would like to take special note of Nigeria's commitment of two battalions for immediate deployment. The United States is pleased to provide support for those deploying units. President Bush has directed the Secretary of Defense to position appropriate military capabilities to support the deployment of an ECOWAS force. A United States Marines force will shortly reach the coast off Liberia. A first ECOWAS reconnaissance team has arrived in Monrovia. As part of the ECOWAS vanguard for the Multinational Force, a first Nigerian battalion is set to move into Liberia as soon as Monday.

Clearly, there was a manifest need for the Council to adopt this resolution quickly. As the security situation deteriorates, humanitarian conditions — already appalling — continue to worsen at a devastating pace. Peacekeepers on the ground will secure the environment for the delivery of humanitarian assistance. Their presence will support the implementation of the 17 June ceasefire agreement, including establishing conditions for initial stages of disarmament and demobilization activities. Very importantly, peacekeepers will safeguard security in the wake of Charles Taylor's departure from the Liberian presidency. I cannot emphasize enough how crucial it is for Taylor to leave now.

Furthermore, it is imperative that all Liberian parties who are signatories to the 17 June ceasefire agreement — in particular the leadership of the Liberians United for Reconciliation and Democracy (LURD) and of the Movement of Democracy in Liberia (MODEL) — immediately and scrupulously uphold the 17 June ceasefire agreement. In that regard, all Liberian parties must cooperate fully with the

Multinational Force and ensure the Force's safety and security in Liberia.

The Multinational Force, starting with the Nigerian battalion that is leaving UNAMSIL, can now deploy confident of the support of the Council and in the knowledge that planning for a follow-on United Nations peacekeeping force is under way.

Finally, I would simply note that, in order to deal with the demands of this urgent situation, we ask the Secretary-General to direct his Special Representative for Liberia to establish a presence in Liberia as soon as possible.

Mr. Zhang Yishan (China) (*spoke in Chinese*): At the outset, I should like to welcome the presence of the Secretary-General at our meeting today. I should also like to warmly congratulate you, Sir, on your assumption of the presidency of the Security Council for the month of August. I am confident that, under your leadership, the Council will be able to accomplish its task successfully. I would like to assure you of our full support in your work. In addition, I should like to take this opportunity to thank the representative of Spain for his outstanding performance as President last month.

The Chinese delegation is deeply concerned at the situation in Liberia. We call upon all Liberian factions to abide by their commitments. We hope that, in the people's interests, they will intensify their constructive negotiations in order to reach a consensus on arrangements for a transitional Government as soon as possible.

We welcome the resolution just adopted by the Security Council, which authorizes the deployment of a Multinational Force to Liberia. The resolution has demonstrated the determination of the United Nations in seeking a political solution to the Liberian question.

We have taken note of the concerns of a number of members with regard to paragraph 7 of the resolution, and we regret that a compromise solution could not be found on that point by the parties concerned. We hope that the resolution can contribute to stabilizing the Liberian situation, to alleviating the humanitarian crisis in its capital and to promoting a peaceful solution to the Liberian question.

China appreciates the tireless efforts of the Secretary-General and of the Economic Community of West African States (ECOWAS) in promoting the peace process. We highly value the decisions reached at the recent ECOWAS summit, and we call upon the international community to provide assistance to the ECOWAS peacekeeping force. We hope that cooperation between the United Nations and ECOWAS can be further strengthened so that, together, they can help the parties in Liberia to end their conflict and to achieve stability and peace in the country soon. We look forward to the report of the Secretary-General on the timely deployment of a United Nations peacekeeping mission.

Mr. Muñoz (Chile) (*spoke in Spanish*): I should like to offer my delegation's congratulations to you, Sir, on your assumption of the presidency, which, as is already evident, augurs well for the work of the Council this month. We would also like to express our appreciation for the work done by Ambassador Arias as President last month. We are very pleased to see the Secretary-General at this meeting. His presence certainly reflects the urgency of the issue and the importance of the resolution that we have just adopted.

The international community and public opinion demanded swift action from our Organization, and particularly from the Security Council. We could not have continued to wait for the Council to take a decision while civilians, including women and children, were dying in Liberia. That is the primary reason why we voted in favour of the resolution.

There were other considerations, such as the fact that, given the absence of local jurisdiction as a result of the catastrophic domestic situation in Liberia, there should be a competent criminal jurisdiction there. We must ensure legal security, and it should be recalled that personnel of the United Nations and of the specialized agencies are granted certain privileges and immunities, including immunity from criminal prosecution. The same is true of bilateral agreements on the status of forces vis-à-vis the host country. We are concerned about the fact that, by making exceptions, we might impede the harmonious development of international law.

To sum up, Chile supported the resolution with enthusiasm, since saving lives is the most urgent priority. We must respond appropriately to a humanitarian crisis that brooks no further delay.

Mr. Duclos (France) (*spoke in French*): Allow me to congratulate you, Sir, and to express our best wishes to you on your assumption of the presidency of

the Council. I should also like to thank the Spanish delegation for its endeavours during its presidency last month. I would like to welcome the presence this evening of the Secretary-General, which attests once again to his commitment to peace and stability in West Africa. I would like to take this opportunity to say how much we appreciate the very important personal role that he has played in recent days and weeks in the service of the people of Liberia.

We are all familiar with the tragic situation that has been continuing in Liberia for many months. France fully supports the thrust of the resolution that has just be adopted. The Security Council has thereby authorized the speedy deployment in Liberia of a Multinational Force and, subsequently, of a United Nations force. We welcome the fact that the resolution was adopted so rapidly. We are grateful to the delegation of the United States for having taken the initiative on this matter.

As we all know, the contribution of the Economic Community of West African States (ECOWAS) has been and remains decisive for creating the opening for a resolution of the crisis in Liberia. In this regard we welcome the role played by the leaders of ECOWAS, in particular President Kufuor and President Obasanjo. It is crucial that ECOWAS receive all necessary support from the international community. Today's resolution represents an important stage in that respect.

France, unfortunately, was not able to join in voting in favour of the resolution because of one of its provisions, which is unrelated to the situation in Liberia. I am referring to the establishment of exclusive jurisdiction by the national criminal courts of States participating in this operation for the prosecution of their nationals.

We do not believe that the scope of the jurisdictional immunity thus created is compatible with the provisions of the Rome Statute of the International Criminal Court, the norms of French law or the principles of international law. Furthermore, it causes a problem of consistency at a time when the Security Council has the intention of spearheading the movement to reject impunity in all its forms.

My delegation put forward several suggestions regarding this provision that we believed would allow us to get around the problem. With respect to the vote itself, we, like others, made some procedural suggestions that would have made it possible for the Security Council to affirm its unity regarding the objective of the resolution while enabling those States having a problem with the question of penal immunity to dissociate themselves from the text on that specific point. We regret that those initiatives were not agreed to.

But the point we wish to make this evening is that new hope is being born for Liberia and its people. Despite the disagreement on a major issue of international law to which I referred, we would like to welcome the commitment of the United States of America to Liberia within the United Nations framework. That commitment will considerably change the situation regarding the tragedy of Liberia. Nor can we forget that that tragedy affects security in the entire subregion.

The commitment of the United States will therefore also have a positive impact on regional stability. France, like the United Kingdom, is committed, under the auspices of the United Nations, to countries neighbouring Liberia, and we welcome the commitment of the United Nations. We are determined to work closely with all those who contribute to the security of the region, side by side with ECOWAS and the United Nations, so that West Africa can embark once again on the path to peace, stability and development.

The President (*spoke in Arabic*): The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The Security Council will remain seized of the matter.

The meeting rose at 8.20 p.m.